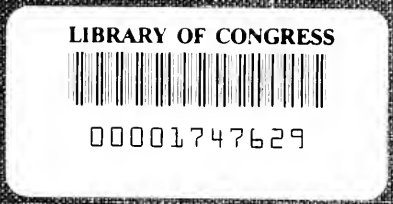

SPEECH

OF

HON. JOHN HEMPHILL,

OF TEXAS,

ON

THE STATE OF THE UNION.

DELIVERED IN THE SENATE OF THE UNITED STATES, JANUARY 28, 1861.

The Senate having under consideration the mission of peace from Virginia—Mr. HEMPHILL said:

Mr. PRESIDENT: The right of a State to withdraw from the Union is the transcendent issue before the country, and I propose to give it a brief discussion. If it be legal, it should be peaceful; if not—if but a right of rebellion—it involves war and subjugation, unless the rebellion becomes successful revolution.

Whether the secession of a State be the exercise of a legal or revolutionary right, must depend ultimately upon the question of sovereignty. Where is that paramount power vested? It must exist in every nation, and as perfectly in one form of government as another.

In 1 Blackstone's Commentaries, pp. 48, 49, it is said that—

"However the several forms of government we now see in the world at first actually began, is matter of great uncertainty and has occasioned infinite disputes. It is not my business or intention to enter into any of them. How they ever began, or by what right soever they subsist, there is and must be in all of them a supreme, irresistible, absolute, and uncontrolled authority, in which the *jura summi imperii*, or the rights of sovereignty, reside."

In a despotism, the monarch is sovereign. In Great Britain the sovereignty is lodged in a King, Lords, and Commons. These are the sovereigns; because the acts of the despot and of the legislative authority of Great Britain control all individuals and all other powers of the State, and are subject to no revision or reversal. In America it is an undisputed political axiom that sovereignty resides in the people. Governments, in this country, are not sovereigns; they are restrained by constitutions, which are mere charts or grants of power from the people, who can abrogate these charts, revoke their grants, institute new governments, and in whom only can reside the rights of sovereignty, that sum of all civil and political power which controls all authorities, and is controlled by none. Sovereignty is not in the people as a mass of individuals, but as a political body or community; and the issue is, does it reside in the whole people of the United States as a political community, or does it remain in the people of the several States, forming distinct, separate communities, though united for special purposes in a Federal Union? This is a practical issue, and depends on historical facts.

That the colonies were distinct and separate from each other, having the same executive head, but no political connection, is as indubitable as any fact upon the records of history. That the delegates in the Continental Congress did not represent the whole people of the colonies as one political body, but that each delegation was chosen and appointed severally, by each several colony, to attend the "Congress of delegates" from the other colonies, and assist in devising means for the per-

Printed by Lemuel Towers, at $1 00 per hundred copies.

petuation of their liberties, is a fact attested by the Journals of the Congress. Each delegation presented its credentials from the respective colony or province from which it had been deputed. The vote was by colonies; each colony having but one vote. No question could be determined on the day of its debate if "any colony" desired its postponement. (Journals of Congress, volume 1, page 7.) Their first declaration was in the name of the "good people" of the several colonies of New Hampshire, Massachusetts Bay, &c., enumerating the thirteen who had, in the language of the declaration, "*severally* elected, constituted, and appointed deputies to meet and sit in General Congress," &c., and who, in vindication of their rights and liberties, resolved—

"That the foundation of English liberty, and of all free government, is a right in the people to participate in their legislative council; and as the English colonists are not represented, and, from their local and other circumstances, cannot properly be represented in the British Parliament, they are entitled to a free and exclusive power of legislation in their *several provincial Legislatures*, where their right of representation can *alone* be preserved in all cases of taxation and internal polity, subject only to the negative of the sovereign, in such manner as has been heretofore used and accustomed."

Here is an unequivocal declaration that the colonists were entitled to a free and exclusive power of legislation—not in any general Congress or Legislature of the colonies, for there had been no such Legislature, but in their several provincial Legislatures—showing that the provinces were, from the beginning, totally distinct and separate from each other. The style of the proceedings in Congress was, in some instances, by the title of the United Colonies; in others, by that of the United Colonies of New Hampshire, Massachusetts Bay, &c., enumerating the whole—these titles being the equivalent of each other.

The United Colonies, dissolving all political connection between themselves and Great Britain, declared themselves to be free and independent States, and not a single free and independent State or nation. This act, though done by the colonies united in Congress, was in fact the act of each one of the colonies. Each of the colonies had instructed, expressly or virtually, their respective delegates to unite in such declaration. It was upon the instructions from Virginia that the motion was offered in convention, and those instructions expressly reserved the right of self-government to the States. The several colonies were—and had been for some period—in a *de facto* state of independence. Hostilities commencing at Lexington in April, 1775, had been vigorously prosecuted. Massachusetts, in the same month, voted to raise thirteen thousand six hundred men; Rhode Island, fifteen hundred; Connecticut, six regiments; New Hampshire, in May, three regiments. In March, 1776, South Carolina established a constitution; Virginia had her bill of rights and frame of government; the allegiance of the citizens of the different colonies was claimed as due to such colony, and not to Great Britain. Such was the opinion and declaration of Congress on the 24th June, 1776, to the effect that—

"All persons, members of, or owing allegiance to, any of the United Colonies, who shall levy war against any of the said colonies within the same, or be adherent to the King of Great Britain, or other enemies of the said colonies, or any of them, within the same, giving to him or them aid and comfort, are guilty of *treason against such colony*."

These facts, and others of like character prior to the Declaration of Independence, prove that the colonies, while exerting their joint efforts for the common defence, had each assumed the rights and powers of sovereignty within their own limits. They were substantially independent; and whether each declared such fact separately, or whether all united in the declaration, under the authority given by each to its agents for that purpose, cannot affect the great truth that the United States were independent, for the reason and upon the sole ground that each State was absolved from its allegiance to the British Crown, and was an independent State.

The States subsequently adopted written articles of confederacy, which were entitled Articles of Confederation and Perpetual Union, between the States of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia. The style of the Confederacy was the United States of America, and, by the stipulation of the second article, each State expressly retained its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this Confederation expressly delegated to the United States in Congress assembled. In the treaty of peace the thirteen United States, by their respective titles, were acknowledged by Great Britain to be free and independent States.

These facts are conclusive that the colonies were separate and distinct from each other; that they were represented as distinct bodies in Congress—voted as such;

that, as States, they remained separate and distinct; that there was no such community known or recognized as the people of the United Colonies or the people of the United States; but the political communities were the people of the several colonies—afterwards the people of the several States—it being expressly declared in their compact that each State retained its sovereignty, and every power not granted to the Confederacy.

The several States being sovereign members of this the first Confederacy, did they cease to be sovereign by their act in the adoption of the Federal Constitution? Did they become a single nation, or a consolidated political unity, or did they remain a Confederacy of States? That they acted as States, as separate sovereign communities, in the framing and ratification of the Constitution, is undeniable. The vote in convention was by States, each State by its delegates having but one vote. The Constitution was transmitted through the Congress of the Confederation to the Legislatures of the several States, and was by them respectively submitted to State conventions elected and assembled under the law of each State. It was ratified by conventions severally of each State acting for itself, and became obligatory by the article declaring that "the ratifications of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same." The first State in the process of ratification was Delaware, on the 12th December, 1787; the ninth, New Hampshire, on the 21st June, 1788. The Constitution was then established as a chart of Government between the nine ratifying States, and had it gone into immediate operation, Virginia, New York, North Carolina, and Rhode Island would have been foreign States, separate and independent of the Confederacy and of each other. And when the new Government went into operation in March, 1789, North Carolina and Rhode Island having declined to ratify, were foreign States, and were treated as such in the act of July 31, 1789. The ratifications of the eleven States could not impose the Constitution on North Carolina and Rhode Island; and the ratifications of twelve could not impose it on Rhode Island, and had she never acceded to the Constitution she would have remained to this day as separate and independent as France, England, or other foreign Power. Each State acted for itself, and was bound by its own act, and that alone, in the adoption of the Constitution.

But the States, though sovereign, had, it may be said, the power to abandon their sovereignty; to annihilate themselves, and create a new nation; and it is insisted that this has been effected, and that the grants and prohibitions of the Constitution extinguish, at least *pro tanto*, the sovereignty itself of the States. But this proposition is a misconception, confounding the distinction between sovereignty and the functions and powers of sovereignty. The latter, in representative Governments, must be exercised by agents; but the sovereignty itself remains in the principal, namely, the people from whom the powers are derived and by whom they may be recalled.

It is generally conceded that the grants of powers in the constitution of a State do not effect the sovereignty which remains in the political body, namely, the people, who can alter, modify, and revoke such constitution. This being admitted, can it be contended that the delegation, by several States, of certain powers of sovereignty to be exercised conjointly by a Federal Government or common agency, instituted by them for that purpose, impairs the sovereignty of each of the States? These powers being delegated, remain the powers of the principal. By the delegation of a portion of its powers, the State is not annihilated. She still retains her separate organization; her existence as a distinct political community; her independent Legislature; her control over the property, social and domestic relations, and criminal jurisdiction of the country, every right and power not delegated, and, in fact, her body politic in every respect; and has not lost that sovereignty residing as an active, regulated, recognized, and all controlling power in the people of the State. And such is the authoritative opinion of most distinguished publicists on the sovereignty of States in confederation. Vattel (B. 1. c. 184,) says:

"Every nation that governs itself, under what form soever, without dependence on any foreign Power, is a sovereign State."

And section ten:

Several sovereign and independent States may unite themselves by a perpetual confederacy without ceasing to be each, individually, a perfect State. They will together constitute a federal republic. Their joint deliberations will not impair the sovereignty of each member, though they may, in certain respects, put some restraint on the exercise of it, in virtue of voluntary engagements. A person does not cease to be free and independent when he is obliged to fulfill engagements which he has voluntarily contracted.

"Such were formally the cities of Greece; such are at present the seven United Provinces of the Netherlands; and such the members of the Helvetic body."

Judge Tucker, the distinguished commentator on Blackstone, treats this subject in a very lucid manner, as follows:

"This independency of States, and their being distinct political bodies from each other, is not obstructed by any alliance or confederacies whatsoever, about exercising jointly any parts of the supreme power; such as those of peace and war, in leagues offensive and defensive. Two States, notwithstanding such treaties, are separate bodies and independent.

"They are, then, only deemed politically united when some one person or council is constituted with a right to exercise some essential powers for both, and to hinder either from exercising them separately. If any person or council is empowered to exercise all these essential powers for both, they are then one State: such is the state of England and Scotland, since the act of Union made at the beginning of the eighteenth century, whereby the two kingdoms were incorporated into one, all parts of the supreme power of both kingdoms being thenceforward united and vested in the three estates of the realm of Great Britain; by which entire coalition, though both kingdoms retain their ancient laws and usages in many respects, they are as effectually united and incorporated as the several petty kingdoms which composed the heptarchy were before that period.

"But when only a portion of the supreme civil power is vested in one person or council for both, such as that of peace and war, or of deciding controversies between different States, or their subjects, whilst each State within itself exercises other parts of the supreme power, independently of all the others; in this case they are called *systems of States*, which Burlamaqui defines to be an assemblage of perfect governments, strictly united by some common bond, so that they seem to make but a single body with respect to those affairs which interest them in common, though each preserves its sovereignty full and entire, independently of all the others." * * * "And in this case, he adds, the confederate States engage to each other only to exercise with common consent certain parts of the sovereignty, especially those which relate to their mutual defense against foreign enemies. But each of the confederates retains an entire liberty of exercising as it thinks proper those parts of the sovereignty which are not mentioned in the treaty of union as parts that ought to be exercised in common. And of this nature is the American Confederacy, in which each State has resigned the exercise of certain parts of the supreme civil power which they possessed before—except in common with the other States included in the Confederacy—reserving to themselves all their former powers, which are not delegated to the United States by the common bond of Union.

"A visible distinction, and not less important than obvious, occurs to our observation in comparing these different kinds of union. The kingdoms of England and Scotland are united into one kingdom; and the two contracting States by such an incorporate union are, in the opinion of Judge Blackstone, totally annihilated, without any power of revival; and a third arises from their conjunction, in which all the rights of sovereignty, and particularly that of legislation, are vested. From whence he expresses a doubt whether any infringements of the fundamental and essential conditions of the union would of itself, dissolve the union of those kingdoms; though he readily admits that in the case of a *federate* alliance such an infringement would certainly rescind the compact between the confederate States. In the United States of America, on the contrary, each State retains its own antecedent form of government; its own laws, subject to the alteration and control of its own Legislature only; its own executive officers and council of State; its own courts of judicature; its own judges; its own magistrates, civil officers, and officers of the militia; and, in short, its own civil State, or body politic, in every respect whatsoever. And by the express declaration of the twelfth article to the amendments to the Constitution, the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people. In Great Britain, a new *civil State* is created by the annihilation of two antecedent civil States; In the American States, a general *federal* council, and administrative, is provided, for the joint exercise of such of their several powers as can be more conveniently exercised in that mode than any other, leaving their *civil State* unaltered, and all the other powers which the States antecedently possessed to be exercised by them respectively as if no Union or connection were established between them."

Some of the higher powers of sovereignty are delegated to the General Government; but this has no greater efficiency in transferring sovereignty itself than the grant of its most insignificant function or attribute. When Texas was a separate Republic, she exercised all those grand powers of peace and war, of alliances and the regulation of foreign commerce, which throws such dazzling lustre over the Government of the United States. She had intrusted these and other powers under her constitution to a single agent, namely, the Government of the Republic. By virtue of her sovereignty, which she had not relinquished or impaired, she, at the period of annexation, distributed these powers between two agents—one the Federal and the other her present State Government. Is she not as a sovereign now as she was before this distribution? Is not the General Government, to which she has delegated some of her powers, just as much her trustee as was the Government of the Republic to which she had formerly intrusted them? And has she not the same right and power to resume them now that she had to recall them from her former trustee and vest them in her present agent or attorney? She has not abandoned the powers ceded to the Federal Government; she has only delegated them. She is still a State, a political body, with control over the lives, the liberties, and property of her people. She entered the Confederacy by compact; and the cession of some of her powers does not detract from her sovereignty. The deliberations in common, says Vattel, offer no violence to the sovereignty of each member of a confederacy.

The power of the General Government to punish individuals for crimes, to collect taxes and imposts from individuals without the direct consent of the State, is relied

on as an argument that the Union is not a Confederacy of States, but is a consolidated Government over the people of the United States. It is generally conceded that the States were parties to the old Confederacy, that they were sovereign; and yet, postage under that Confederacy was collected from individuals; military and naval officers were appointed with jurisdiction over life, and men were executed under that jurisdiction; and courts of admiralty had jurisdiction over persons and property. Jurisdiction over individuals, then, does not destroy the federative character of the Union. In the forty-fifth number of the Federalist, Mr. Madison says that the new Constitution—

"Consists much less in the addition of new powers to the Union than in the invigoration of its original powers. The regulation of commerce, it is true, is a new power. The powers relating to war and peace, armies, and fleets, treaties and finance, with the other more considerable powers, are all vested in the existing Congress, by the Articles of Confederation. The proposed change does not enlarge these powers; it only substitutes a more effective method of administering them. The change relating to taxation may be regarded as the most important; and yet, the present Congress have as complete authority to require of the States indefinite supplies of money, for the common defence and general welfare, as the future Congress will have to require them of individual citizens; and the latter will be no more bound than the States themselves have been to pay the quotas respectively taxed on them."

I have shown that in certain particulars there was, under the confederation, a direct connection between the Government and individuals; and the only effect of extending this direct action to the operations of the Government generally, was to impart energy and vigor, but not to change the federative character of the Union. Had the States paid their quotas, or could the payment have been enforced by the like peaceable processes which are successful against single persons, there would have been little or no necessity for the adoption of a new Constitution. But the action of the Federal Government, whether upon the State governments or on single persons, has force in a State by its assent only; and whether the State collects the taxes and pays them over to the General Government, or whether, by her concurrence, the functionaries of that Government collect them from individuals, can be of no importance, nor can it detract from the sovereignty of the State, or convert a confederacy of States into a consolidation.

The phraseology of the preamble—"we, the people of the United States"—is often relied upon in support of the position that the Constitution was framed by the whole people of the United States, and not by the people of the several States, as distinct communities. The preamble, as reported by the committee of details, was: "We, the people of the States of New Hampshire, Massachusetts, Rhode Island," &c., through the thirteen. This was altered by the committee of style and arrangement to, "We, the people of the United States," without assigning any reason for the change. But the phrases are the equivalent of each other. The States were then in confederacy. The Articles of Confederation were in terms between New Hampshire, Massachusetts, &c.; and the style of the Confederation was "the United States of America;" and the terms, "the people of New Hampshire," &c., (specifying the whole of them,) or, "the people of the United States," were identically the same thing in meaning and substance. There was, however, a substantial reason for the change in this instance. The Constitution was to be binding between those States only that ratified the same, and the States which would accede to this new Union could not be known or enumerated until after the acts of ratification. If the old Union was but a Confederacy—and that is admitted—the new cannot be a consolidation from the use of the phrase "United States," which was, in fact, the style and title of the old Confederacy, and which was expressly between the thirteen States by specification and title, or between the people of those States; for the people of a State, as a political body, is the State itself.

The sixth article of the Constitution, declaring the Constitution and laws made in pursuance thereof, and treaties, to be the supreme law of the land, is supposed to give the General Government special supremacy beyond the control of the States, and, in fact, subject to no control, except the will of a majority of the people of the United States. This is not so much a new power, as a more specific expression of the intent of the stipulation in the Articles of Confederation, that—

"Every State shall abide by the determination of the United States in Congress assembled, on all questions which, by this confederation, is submitted to them."

The grant of such authority expressly or by implication was a necessity to the operation of the General Government. Its powers are limited. Those of the State governments general. The Constitution and laws of the United States, if not supreme, would have been in constant collision with those of the States. The consti-

tution and laws of one State vary from those of other States; and unless those of the United States were paramount, they might be valid in some States, and without effect in others. It was proper that laws made by the authority of all the States should be superior to those of a single State; otherwise, they would have been almost nugatory and inoperative. This supremacy of the laws of the United States within the limits of a State arises from the assent of the people of that State to the Constitution. To that extent it may be regarded as the constitution of the State; and the Federal officers, but the functionaries of the State. If the State of South Carolina were now to form two governments within the limits of that State, one with the powers that had been delegated to the Federal Government, and the other with the ordinary powers of her former State government, with the declaration that the laws of the former should be supreme when they came in conflict with those of the latter, this would not impair the sovereignty of the people that had delegated the powers to both of these governments.

Another argument against the sovereignty of the States is, that treason may be committed against the United States; that treason is a breach of allegiance; that allegiance is due to a sovereign; and that, therefore, the United States are sovereign. It is certainly competent for a number of sovereigns to stipulate that war levied against them in their united capacity should be defined and punished as treason. Would the United States have had the power to define and punish the crime of treason without express grant in the Constitution? Certainly not. In 1832, a question was raised whether the German confederation was a State, and consequently the object of treason. The Diet, for future cases, decreed to the effect that since every State was part and parcel of the confederation, crimes committed against the confederation should be punished as treason against every particular State. (Westminster Review, July, 1860.) Legislation was required in Germany before the crime against the confederation could be punished; and had it been determined that the crime should be punished as treason against the State where committed, its soundness could not have been disputed.

But if the Constitution had not defined the crime of levying war as treason against the United States, would not the offence have been treason against the State where committed? The Constitution and laws of the United States are in fact the laws and constitution of the State, and the crime might have been regarded as a breach of allegiance to the State.

But nothing can be inferred against the federative character of the Union from the fact that a crime against the common Government is defined and is to be punished as treason.

This is the stipulation and agreement of the several sovereign parties. They were under no compulsion to adhere strictly to the technicality that treason was the breach of allegiance. They had the power to define any crime against them jointly to be treason. If war against the old Confederacy had been defined treason against the United States, this would not have impugned its character as a federation, nor the sovereignty of the constituent States; nor can it derogate from the sovereignty of these parties that, in the new compact, they defined the crime of levying war against them jointly to be treason, and provided for its punishment.

From the facts and considerations detailed, the conclusion is irresistible that the States were, each one of them, sovereign, prior to the adoption of the Federal Constitution; that the Constitution is a compact between these sovereign States, by which they delegated a portion of the powers of sovereignty to be exercised conjointly by a General Government; that they reserved to themselves all the powers not delegated; that they still continued as States; that they ratified the Constitution, each State for itself, in its highest sovereign capacity, in convention assembled in each State, under the law thereof; that it became binding on the people of each State by the act of the State, and not by the ratification of any or of all the other States; that the people of the several States, acting as distinct political communities, were the parties to the compact; that no such political body has existed as the people of the United States, nor were they a party to the compact in a political capacity, or otherwise, except as the people of thirteen separate and distinct States; that, though high and important powers of sovereignty were delegated, yet sovereignty itself remained in the people severally of the States, that they have only delegated powers, not sovereignty.

Each State, or the people of each State, as a political body, being sovereign, has the unquestioned power to modify, change, control, and subvert their State government and establish another; or, what is equivalent, they can revoke their grants of power, and adopt a new constitution or chart of grants. This principle of sov-

ereignty is so well recognized, that, generally, the mode of its exercise is prescribed. Its acts are paramount, and all authorities and citizens must submit to its decision. But the State is, in every respect, as much a sovereign, with regard to the powers it has delegated to the general agency or Government, as to those which it delegated to its State government. It has control over all those powers, because they are only delegated, not surrendered or abandoned, to either of these governments. If they were relinquished, the State would no longer exist as a body-politic; the sovereignty would be in the Government to which it was transferred; and to the people would be left, not that regulated right, acknowledged and recognized by American theory and practice, but that imaginary sovereignty which is supposed to exist even under a despotic monarchy.

The States, and they alone, being parties to the Constitution, it is as between them a compact, or league, although it is a frame of Government for those upon whom it operates; and the States being sovereign members of this league, or confederacy, have a right, as stable as the foundations of international law, to renounce the league at any time, and withdraw from the federation. They are bound to their confederates by the ties of good faith. The tranquillity and security of mankind depend upon a due regard to the rights of others. But each State can, with or without cause, separate from the others, being answerable as one nation is to another. If a treaty has been already violated by the other parties, her separation is no just cause of war. Each party or nation must judge for itself; and if her confederates will make war upon a seceding State, with or without cause, she must abide the issue. The right of secession depends on international law. It is above and independent of the Constitution. If, however, sovereignty itself was but a right, then it exists in the State, among the reserved rights under the Constitution. Such right has not been prohibited to the States. But sovereignty is the creator, not the creature of constitutions. The Constitution does not deal with sovereignty in any other manner except as receiving all its grants and authority from that source.

If the States be sovereign, the act of withdrawal cannot, without an utter misconception and confusion of terms, be pronounced rebellion. This is the open renunciation of the authority of the Government to which one owes allegiance. The distinction between a rebel and an enemy is, that the former owes allegiance to the Government he attacks. Now, a sovereign State owes no allegiance to any power. Its citizen owes obedience to the Government of the United States as long as the State remains a member of the Union, acknowledging its jurisdiction, and claiming the benefit of its protection. He owes this obedience solely from the act and consent of his State to the Constitution. When this consent is recalled by a State; when, in the like sovereign capacity in which she gave her assent, it is revoked, she dissevers the ties between her citizens and the General-Government, and expunges their obligation to obey the Constitution or laws of the United States.

The act of a sovereign, declaring a compact, league, or treaty, no longer binding on him, has never been defined or treated as rebellion. Whether there be or not just cause for such declaration, it is no violation of his allegiance, for he owes none to the cosovereign parties to the league; and the act of the sovereign binds the citizen, and absolves him from obedience to the compact. The citizen is not individually responsible for the acts of the State to which his allegiance is due. The State is responsible. The citizen owes his allegiance to the State, and is bound to obey her acts; and these are a justification in law of his refusal to obey the laws of the United States. It would be to extinguish all the lights of international law to hold that the withdrawal of a sovereign State from a confederacy, and her mandate that the laws of such confederacy should no longer have force within the limits of her territory, are of no higher authority than the declaration of the people of a county that the laws of the State should not be executed within the limits of that county. This would be rebellion; a violation of the allegiance owing to the State. The county is but a part of a consolidated political unity; has no sovereignty, and is entitled to none of its rights or powers.

But the act of a sovereign State, declaring a compact at an end, revoking all the powers she may have delegated, is not only no rebellion, but no cause of war on the part of other confederates, unless such withdrawal menace the safety or the existence of the other States. It is of the deepest importance to the peace and tranquillity of these States, to the cause of humanity itself, that the legal principles applicable to the act of secession be clearly understood and conclusively established. If secession be rebellion, and coercive measures be used for its suppression, the citizens of the State, act as they may, would be treated as traitors on the one hand to the United States, and on the other to the State. This may be said to be an ordi-

nary, though cruel, contingeney of rebellion. But if no coercion be used, (although the act be proclaimed rebellion,) then the citizens who support the State, though proclaimed traitors, pass unmolested; but how unhappy and miserable the fate of those who exhibit fidelity and attachment to the United States. Deceived and ensnared by the denunciations of the Federal authorities that secession is unlawful, seditious, and rebellious, they might, to maintain the Union, be induced to oppose this denounced rebellion by force of arms. Their "fidelity" would receive no support from the Government to which they had devoted their lives; they would be abandoned to the mercy of those who had been denounced traitors by the Federal Government, and would be laughed to scorn for their folly in putting their trust in the words of this great and powerful Government. But this confusion, this monstrous incongruity, the fruitful source of mischief and civil internecine war, would vanish if the fundamental principles of the Union, as a compact between sovereign parties, were recognized and appreciated. The withdrawal by a State for just cause would be peaceful. Before secession, the citizens of the State might oppose the separation, if they deemed it impolitic or inexpedient, by all lawful means. But after separation, which *ipso facto* releases them from obedience to the Federal authority, it becomes their duty to support the State in the operation of its independence, and as the sovereign to whom they owe their allegiance. On these plain and conclusive principles there would, if war supervened, be no rebellion, no treason. There would be enemies, but no rebels.

I shall not enumerate the violations of the compact, the wrongs inflicted on the South, and the dangers with which she is menaced. These have engendered discord, little less calamitous than actual hostilities. They have been often depicted in the glowing language of eloquence and truth; and I shall not repeat them. Senators are familiar with the gloomy details of the insults and wrongs to the South, and of the causes which are rending this vast Confederacy into fragments. I may remind Senators, however, that a most powerful consideration inducing the consent of Texas to annexation was the apprehension of hazard to the institution of slavery from the diplomacy of Great Britain; and now, when she discovers that instead of finding security she has encountered peril, when dangers are thickening around, threatening the safety of the institution which lies at the foundation of her social organization, and is the life-blood of her existence, it cannot be surprising that she should secure herself against these instant and pressing evils, by abandoning the Confederacy, and adopting such measures as will effectually protect her rights, and the tranquil enjoyment of her liberties.

But the controversy about the causes of separation is no longer the question of primary interest. It has passed that stage in its progress. The process of disintegration has begun, and is making rapid advances; and the absorbing issue is: shall this separation be effected in peace, or result in war? Several of the States have, by solemn ordinances of conventions acting in their highest sovereign capacity, resumed their delegated powers, withdrawn from the Confederacy, and declared themselves separate and independent States. Has this Government the power under the Constitution to reduce, by military force, a seceding State or her citizens to obedience? That such power is not expressly granted in the Constitution, is admitted. That it was deliberately refused, is shown by the journals of the convention. In the plans submitted by Mr. Randolph and Mr. Paterson, there was provision to employ the power of the Union to enforce obedience to the laws of the United States. In the discussion, Mr. Madison observed that—

"The more he reflected on the use of force, the more he doubted the practicability, the justice and efficiency of it, when applied to people collectively and not individually. A Union of States, containing such an ingredient, seemed to provide for its own destruction. The use of force against a State would look more like a declaration of war than an infliction of punishment, and would probably be considered, by the party attacked, a dissolution of all the previous contracts by which it might be bound."—*Madison Papers*, p. 761.

The clause was then postponed, and never resumed.

Mr. Mason denounced the plan of military coercion in very emphatic terms, as follows:

"The most jarring elements of nature—fire and water—themselves, are not more incompatible than such a mixture of civil liberty and military execution." * * * "In one point of view he was struck with horror at the prospect of recurring to this expedient. To punish the non-payment of taxes with death, was a severity not yet adopted by despotism itself; yet this unexampled cruelty would be mercy, compared to a military collection of revenue, in which the bayonet could make no discrimination between the innocent and the guilty."—*Madison Papers*, p. 914.

Mr. Hamilton, on more than one occasion, reprobated the scheme of employing force against States. In a speech in the New York convention, he insisted that the

radical vice of the old confederation was, that the laws of the Union applied to the States in their corporate capacity; that States executed requisitions only as suited their convenience or advantage; and, in reference to the coercion of delinquent States, he said:

"To coerce the States is one of the maddest projects that was ever devised. A failure of compliance will never be confined to a single State. This being the case, can we suppose it wise to hazard a civil war? Suppose Massachusetts, or any large State, should refuse, and Congress should attempt to compel them: would they not have influence to procure assistance, especially from those States who are in the same situation as themselves? What picture does this idea present to our view, Congress marching the troops of one State into the bosom of another—this State, collecting auxiliaries, and forming, perhaps, a majority against its Federal head? Here is a nation at war with itself. Can any reasonable man be well disposed towards a Government which makes war and carnage the only means of supporting itself—a Government that can exist only by the sword?"

The plan of the coercion of a State by force of arms was no new scheme, upon which the members of the convention expressed hasty and ill-digested opinions. As the laws applied to States under the old Confederacy, and not generally to individuals, it was not necessary for a State to *approve* a law. If the State did not act, the law was defeated. If coercion by force against States was necessary or admissible under any federative Union, it was under the old Confederation. The States were often delinquent, and the Government of the Union reduced to a shadow; and yet the United States could not obtain power to compel the States to fulfill their Federal engagements.

The proposition for military force against States had been discussed for years; and the opposition of the convention, and the refusal to grant such power in the new Constitution, was the result of mature deliberation.

But it may be said that the denunciation of military force was to induce and commend to popular favor the change by which the Federal laws were made to operate immediately on individuals, and not, as formerly, on the States in their corporate capacity. That this consideration had its influence, appears from the debates themselves. One scheme was called the coercion of force; the other, the coercion of law. Mr. Ellsworth, in the Connecticut convention, after painting in strong colors the imbecility of the Confederacy from the want of a coercion of force—that without coercion there could be no Government—said:

"The only question is, shall it be a coercion of law or a coercion of arms? There is no other possible alternative. Where will those who oppose a coercion of law come out? Where will they end? A necessary consequence of their principles is a war of the States, one against the other. I am for coercion by law—that coercion which acts on delinquent individuals. This Constitution does not attempt to coerce sovereign bodies—States in their political capacity. No coercion is applicable to such bodies but that of an armed force. If we should attempt to execute the laws of the Union by sending an armed force against a delinquent State, it would involve the good and bad, the innocent and the guilty, in the same calamity."—2 *Elliot's Debate*, p. 199.

Can it be imagined that the framers of the Constitution, denouncing as they did the coercion of arms against a State in the strongest terms, intended that the power to enforce the laws against individuals, through peaceable processes before the ordinary magistracy, should be so perverted as to authorize the use of force against States; thus effecting, by fraud and stratagem, that which they openly denounced and solemnly refused? The very statement of the case confutes the supposition. Every argument which had been urged for years against force to coerce States, was as potent under the new Union as the old Confederation. The change from the action of the laws on States to individuals infused, it is true, vast energy into the Government. Under the laws of Congress, the Government may, in aid of civil tribunals, resort to force to suppress insurrections of disorderly and refractory individuals against its authority. The insurrection may be wide-spread, embracing vast masses of individuals; but if the resistance be not organized under the authority of a State, it is but an insurrection or rebellion, and may be suppressed by the whole force of the United States.

But this power against insurgents was never to be used against States. Our fathers suffered the Confederacy to fall into total impotency rather than allow military force against States. To remedy this, they granted, in substance, power, civil and military, against individuals; but never to be converted into an instrument against the States in the cases which would very rarely occur of active organized resistance by them against the laws of the Federal Union. Mr. Hamilton, in the sixteenth number of the Federalist, denounces the use of military force against the sovereign States of a Confederacy, declares the effect to be civil and bloody wars; commends the Constitution, on the ground that it carries its agency to the persons of the citizens, and can employ the arm of the ordinary magistracy to execute its resolutions; and in answer to the objection that a State, disaffected to the authority

of the Union, could at any time obstruct the execution of its laws, does not recommend the employment of force against the State; disapproves of the experiment; but expresses, in substance, that through the concurrence of the majority of the Legislature, of the courts of justice, and of the body of the people, such resistance would meet with success, and, that attempts of the kind would not be often made.

In the twenty-eighth number of the Federalist, Mr. Hamilton says:

"It may safely be received as an axiom in our political system, that the State Government will, in all possible contingencies, afford complete security against invasions of public liberty by the national authority. Projects of usurpation cannot be masked under pretenses so likely to escape the penetration of select bodies of men, as of the people at large. The Legislature will have better means of information; they can discover the danger at a distance; and possessing all the organs of civil power, and the confidence of the people, they can at once adopt a regular plan of opposition, in which they can combine all the resources of the community. They can readily communicate with each other in the different States, and unite their common forces for the protection of their common liberty."

But, if military force was denied to the old Confederacy for the execution of any of its laws; if the grant for the like purpose was refused under the present Constitution; and if there be no pretext that, under the plea of enforcing laws against individuals coercion of arms may be employed against a sovereign State,—can there be a shadow of claim in the General Government to coerce a State into submission, that has by solemn ordinance dissolved all connection with the Union, and resumed its separate sovereignty and independence?

The objection to a military force against a State was that it would involve war and bloodshed. If this be valid, even when a State is in the Union, it acquires prodigious power against any attempt to employ force against a State which has assumed separate sovereignty, claiming no advantage from the Union and owing it no duties or obligations. The true ground of objection to force against a State is its sovereignty. If this is a consolidated Government, if the States are provinces or departments—if they hold the position to the Union that a district or county does to a State, then the denunciations of military force are unmeaning. England and Scotland were independent kingdoms. They were united into the kingdom of Great Britain. Neither Madison, Hamilton, or any statesman or publicist, would denounce the use of force against Scotland were she to resist the laws of Great Britain or attempt to secede, for the reason that Scotland had relinquished her sovereign character, and is but a province or territorial division of the new kingdom. Will any one contend that the States hold the relative position to the Union that Scotland does to the kingdom of Great Britain? Scotland has no independent Legislature, no civil state, no control over life, liberty, or property; no reserved powers, as has each State of this Union; and military coercion which may be applied to the first as a rebellious province, a part of a political unity, cannot, at least without express grant, be used against the latter, which is a sovereignty, not a part of a political unity, but a political unit itself, which, with other units, make the multiple of the Union, or, out of the Union, a complete and independent sovereignty.

As the question of force against a seceding State depends mainly upon the character of the Government, whether consolidated or a confederation by compact of sovereign States, and as the sovereignty of the States and the right of secession were never asserted with more felicity and cogency than in the resolutions offered by Mr. Randolph, at Charlotte, in 1852, I will read them as a part of my argument:

"*Resolved*, That Virginia is, and ought to be, a free, sovereign, and independent State; that she became so by her separate act, which has since been recognized by the civilized world, and has never been disavowed, retracted, or in anywise impaired or weakened by any subsequent act of hers.

"*Resolved*, That when, for common defence and common welfare, Virginia entered into a strict league of amity with the other twelve colonies of British North America, she parted with no *portion* of her *sovereignty*, although, from the necessity of the case, the authority to enforce obedience thereto was, in certain cases, and for certain purposes, delegated to the common agents of the whole confederacy.

"*Resolved*, That Virginia has never parted with the right to recall the authority so delegated, for good and sufficient cause, nor with the right to judge of the sufficiency of such cause, and to secede from the Confederacy whensoever she shall find the benefits of Union exceeded by its evils—union being the means of securing liberty and happiness, and not an end to which these should be sacrificed.

"*Resolved*, That the allegiance of the people of Virginia is due to her; that to her their allegiance is due, while to them she owes the protection against the consequences of such obedience."

In the language of the resolution, Virginia has not parted with the authority to recall her delegated powers. She expressly reserved her right in her act of ratification, declaring that powers granted under the Constitution, being derived from the people of the United States, *may be reserved* by them whenever the same shall

be perverted to their injury or oppression, and that every power not granted thereby remains with them, and at their will. The language is wanting in precision, but its meaning cannot be mistaken. It speaks of the people of the United States. But as they did not collectively, or as a political body, grant any powers, so none can be resumed by them. The people of each State granted powers; and they can be resumed only by the people of each State. Virginia was acting for her own people, and could speak only for them.

In the ratification by New York, the delegation of power by the people of the State, and their right of resumption, are expressed in terms of great clearness:

"That all power is originally vested in, and consequently derived from, the people, and that government is instituted by them for their common interest, protection, and security. That the powers of Government may be reassumed by the people, whensoever it shall become necessary to their happiness; that every power, jurisdiction, and right, which is not by the said constitution clearly delegated to the Congress of the United States, or the departments of the Government thereof, remains to the people of the several States, or to their respective State governments, to whom they may have granted the same."

Rhode Island also declared:

"That all power is naturally vested in, and consequently derived from the people; that magistrates, therefore, are their trustees and agents, and at all times amenable to them. That the powers of government may be *reassumed* by the people whensoever it shall become necessary to their happiness."

What would these provisions mean if inserted in the constitution of a State? That the powers of Government could be resumed, but only through war and blood? Certainly not. They affirm in American political science a recognized, peaceful right of resumption by the people of the several States, the grantors, whether the grant were to the government of the State or the Government of a confederated Republic. Small would have been our advance in the paths of liberty, in vain would the blood of the Revolution have been shed, if this be but the assertion of a right which a down-trodden serf may claim, with a halter round his neck and the gallows as his doom, if his resistance through blood and carnage be unsuccessful.

Having established the positions that the States relinquished no portion of sovereignty, and that their right to resume their delegated powers is perfect, the act of secession furnishes no legal or justifiable ground for war against a State by its former confederates. The compact was broken by the North, and it is no cause of hostility that it should now be treated as broken by the South. We are at peace with all the world, and the separation of one or more States from the Confederacy does not endanger the safety or the existence of others. But admit that secession is rebellion, will you make war on five States, five million people, increased probably to fifteen States and twelve million? Can you possibly dream of conquest in a war of this character? You cannot employ the forces of the United States unless in aid of judicial processes; and how can these be obtained when among the millions you are attempting to coerce none can be found who would hold office under your Government? But should you disregard the provisions of the Constitution, declare martial law, and attempt to crush out the spirit of liberty, be not deceived with the delusion that you will triumph in this wicked warfare, nor that the war would spend all its fury in the South. Assaults can be best repelled by assuming the offensive.

If for peace we are to have desolation, the butchery of our finest youths, the mangled limbs of men, the shrieks of the virgin, the smoke and ashes of consumed habitations, think you that these scenes of horror will not be enacted in your opulent and magnificent cities, your great towns, and beautiful hamlets? If war should come, its calamities will be inflicted on the whole country, and blood will redden the streams of the North as well as South. Let no countenance be given the delusion that slavery is an element of weakness, or that the South would be endangered from slave insurrections. The heroes and conquering nations of antiquity were slaveholders. I was born in the South, have lived long upon the earth, and have never witnessed even an attempt at an insurrection. Of the rumors of this character, but very few have any foundation other than the causeless alarm, or, though rarely, a spirit of mischief. The phantasm that there is no sense of security in the South, is utterly groundless and superlatively absurd. Many of the slaves, raised with their masters, joining with them in all the sports of boyhood, the constant recipients of their kindness in sickness and health, would eagerly sacrifice their lives in their defence. And all of them, regarding their masters very justly as their guardians and protectors, would most willingly encounter danger and render service to secure their triumph. But this would not be necessary; the slaves would

continue their agricultural labors, while the war would rage in a sphere above them. The food and supplies of the country would thus be constantly produced, while these would be very much endangered in the free-labor sections, where every inhabitant may be dragged from his field to the camp.

Such very few insurrections as have occurred, and the plans of risings that have been detected, have invariably been partial—limited to a neighborhood, county, or small district. The alarms have been partial, and very quickly subside; and the idea that the South would be required to employ part of its forces to prevent insurrection could have originated only in the disordered brain of a fanatic; and I dismiss it as unworthy of consideration. Bad men may attempt excitement, and may create irritation; but they will have no more success in disturbing the loyalty of the slave population than did John Brown in his raid at Harper's Ferry.

Why should there be war between the United States of the North and the United States of the South. If the United States of Mexico and the States of America now live in peace to the mutual advantage of both countries, why should not the confederacies that are now springing into life be at peace? The dissolution of this Union is not an end of free Government. Its power gives security and repose to the people; and this is the cause of their rapid advancement in all the elements of prosperity and greatness. But this development and prosperity will flow on in increased volume and grandeur under any free Governments strong enough to repel foreign aggression and repress domestic dissension. The two confederacies would, in a few years, be each of them more powerful than the existing Government; and if there be amity between them, (there being no internal elements of discord in either confederacy,) the progress and improvement of each would attain a height and greatness of which history furnishes no example.

I will notice but very briefly the charge of ingratitude against the State of Texas, should she attempt a separation from the United States. It must be remembered that the United States did not, by the annexation of Texas, propose exclusively or mainly the benefit of the latter.

The official records show that the honor, peace, and safety of the United States were the principal considerations. Among other proofs of this I refer to the inaugural message of President Polk. He said:

"None can fail to see the danger to our safety and future peace if Texas remains an independent State, or becomes an ally or dependency of some foreign nation more powerful than herself. Is there one among our citizens who would not prefer perpetual peace with Texas to occasional wars, which so often occur between bordering independent nations? Is there one who would not prefer free intercourse with her, to high duties on all our products and manufactures which enter her ports or cross her frontiers? Is there one who would not prefer an unrestricted communication with her citizens, to the frontier obstructions which must occur if she remains out of the Union?"

I will recur very briefly to the conditions of annexation. The United States demanded the unconditional surrender of the arms and forts of Texas, and all the means of public defence; although now, when their own arms and forts are in question, the savage cry of the swarming millions of the North is, "we will have the forts or we will have blood" I will not comment on the terms in relation to slavery. The statement of them would be their condemnation. This vast accession to the United States of fertile territory, in a delightful climate, was characterized in the President's message of December 2, 1845, as a "bloodless achievement." The sword had no part, nor did the purse have any in the victory.

True, Texas retained her public lands; but those, after the surrender of the revenue from customs, was her principal resource for the extinguishment of the sacred debt of the war of independence, and for the support of the government and the existence of the Republic. But Texas is charged—at least indirectly—with being the cause of the war with Mexico, with its enormous expenditures of money, and of the blood and lives of thousands who fell upon the battle-field, covered with imperishable honors. Can it be possible that all these vast expenditures were incurred, that State after State of Mexico was overrun, that its proud Capital was occupied by our victorious armies—and all this for the defence of Texas, and the integrity of her soil? Let us examine the facts.

Mr. Polk, in his message of December, 1846, declares that the war with Mexico was not provoked by the United States; that—

"After years of endurance of aggravated and unredressed wrongs on our part, Mexico, in violation of solemn treaty stipulations, and of every principle of justice recognized by civilized nations, commenced hostilities; and thus, by her own act, forced the war upon us. Long before the advance of our Army, to the left bank of the Rio Grande, we had ample cause of war against Mexico."

He presents a gloomy list of the insults and spoliations, the wrongs and outrages, committed by Mexico against the citizens of the United States for a period of more than twenty years; that if these had been resented, the war would have been avoided; that the annexation of Texas was no just cause of offence to Mexico; that Texas had been an independent State for more than ten years; that the threats of Mexico to invade the territory of Texas became more imposing as it became more apparent that Texas would decide in favor of annexation; that it would have been a violation of good faith to the people of Texas to have refused aid against a *threatened invasion to which they had been exposed by their free determination to annex themselves to our Union.*

"The war has not been waged with a view to conquest; but having been commenced by Mexico, it has been carried into the enemy's country, and will be vigorously prosecuted there, with a view to obtain an honorable peace, and thereby to secure an ample *indemnity for the expenses of the war*, as well as to our *much injured citizens*, who hold large pecuniary demands against Mexico."

It is apparent, from the message, that the invasion by Mexico of the territory of Texas was occasioned by the acceptance of the terms of annexation by the latter; that though Mexico struck the first blow, yet the United States immediately assumed the aggressive—extended her conquests, not for the defence of Texas, but to secure indemnity for the expenses of the war, and the losses and wrongs of the injured citizens. These grievances had been set forth in the previous message of the President, in May 11, 1846; and Congress responded by the act of May 13, 1846, authorizing fifty thousand volunteers and ten millions appropriation. The proclamation from the War Department, issued by General Taylor, of June 4, 1846, shows that the United States were prosecuting the war for causes other than the defence of Texas. Here is the proclamation of General Taylor:

"*To the people of Mexico:* After many years of patient endurance, the United States are at length constrained to acknowledge that a war now exists between our Government and the Government of Mexico. For many years our citizens have been subjected to repeated insults and injuries, our vessels and cargoes have been seized and confiscated, our merchants have been plundered, maimed, imprisoned, without cause and without reparation. At length your Government acknowledged the justice of our claims, and agreed, by treaty, to make satisfaction, by payment of several million dollars; but this treaty has been violated by your rulers, and the stipulated payments have been withheld. Our late effort to terminate all difficulties by peaceful negotiation has been rejected by the Dictator Paredes; and our minister of peace, whom your rulers had agreed to receive, has been refused a hearing. He has been treated with indignity and insult, and Paredes has announced that war exists between us."

And here are the purposes for which the war is waged:

"We come to obtain reparation for repeated wrongs and injuries; we come to obtain indemnity for the past and security for the future."

The only indemnity for the long-deferred claims of our citizens, and the reimbursement of the expenses of the war, was stated in the message of December, 1847, to be a cession of a portion of the Territory of Mexico to the United States. That the doctrine of "no territory was no indemnity," and if sanctioned, would be a public acknowledgment that our country was wrong, that the war declared by Congress with extraordinary unanimity was unjust, and should be abandoned; "an admission unfounded in fact, and degrading to the national character." This is an unequivocal acknowledgement, that no matter with what intent Mexico may have stricken the first blow, or in other words, shed "American blood on American soil," yet the United States prosecuted the war to obtain indemnity for the grievous and accumulated wrongs of their citizens.

Texas is surely not responsible, morally or otherwise, at least to but a limited extent, for the vast expenditures of money, or for the lives of so many valiant and heroic men sacrificed in the prosecution of this war of conquest, to indemnify citizens of the United States, and secure them against future wrongs. One effect of the war was to secure Texas against foreign aggression; and for that she has not been wanting in gratitude. Another result was the cession of New Mexico and California to the United States, or five hundred and twenty six thousand and seventy eight square miles west of the Rio Grande. The latter, namely, California, has supplied the world with $500,000,000 of its circulation, all drawn from the rich mineral lands of the United States. If the gold be extracted by squatters without right or title, it is the misfortune of the Government, but does not impair the value of the acquisition.

The fortifications and the arms and military stores of the United States in Texas, are too utterly insignificant to deserve notice. Of the more than thirty million dollars expended for fortifications in the United States, but $500 have been laid out in Texas. There is but a beggarly account of small arms in the United States arsenals

in Texas—a few more, perhaps, than five thousand, including the serviceable and unserviceable.

The sale, four years after annexation, of a large portion of the territory of Texas to the United States has frequently been made the subject of reproach. The cry that our title was not good, insulting and groundless as it is, has become stale from repetition. The boundary of Texas, from the mouth of the Rio Grande to its source, was proclaimed by Texas from the commencement of her revolution, and was recognized in the first law on her statute-book, in 1836. That this was the boundary of Texas, fixed by legislation, was known to Mexico; it was known to the United States, and to the great Powers of Europe, among whom we took rank as a nation. The war between Texas and Mexico was not about boundary. Mexico claimed the whole country; and so did Texas; though during the progress of annexation, Mexico proposed to acknowledge the independence of Texas, leaving the boundary to future negotiations.

By the articles of annexation, Texas authorized the United States to adjust all questions of boundary that might arise with Mexico. The title of Texas to the whole of her territory was founded upon the sword. She was under no moral, legal, or international obligation to restrict the limits of the Republic to the lines of the old province of Texas; nor did the validity of her title, at least with respect to the United States, depend upon the actual possession and jurisdiction over every foot of her territory. And such was the opinion of the United States in sending troops to the lower Rio Grande. The country in the immediate vicinity of that river had been and was then in the occupation of the Mexican authorities; and all the acts of that *de facto* Government relative to private rights, up to possession by the American troops, have been recognized by the judicial tribunals as valid and binding. But yet the United States asserted the right of Texas, and declared that the blood of her soldiers poured out on the battle-fields of Palo Alto and Resaca de la Palma was "American blood shed upon American soil."

The United States, from annexation, in 1846, to 1850, recognized the validity of our title to the country east of the upper Rio Grande. General Kearny, in taking possession of New Mexico, in August, 1846, speaking in the name of his Government, declared to the people that he considered, and had for some time considered, the country as a part of the territory of the United States. This was an assertion of the title of Texas. It could not possibly have been a part of the United States unless by being a part of Texas. The President, in February, 1847, admitted that the possession of the country by the United States was held in subserviency to the title of Texas. This will be seen by reference to his special message of July 24, 1848. Here is the message of Mr. Polk:

"Under the circumstances existing during the pendency of the war, and while the whole of New Mexico, as claimed by our enemy, was in our military occupation, I was not unmindful of the rights of Texas to that portion of it which she claimed to be within her limits. In answer to a letter from the Governor of Texas, dated on the 4th of January, 1847, the Secretary of State, by my direction, informed him, in a letter of the 12th of February, 1847, that, in the President's annual message of December, 1846, 'you have already perceived that New Mexico is at present in the temporary occupation of the troops of the United States, and the government over it is military in its character. It is merely such a government as must exist under the laws of nations and of war, to preserve order, and protect the rights of the inhabitants, and will cease on the conclusion of a treaty of peace with Mexico. Nothing, therefore, can be more certain than that this temporary government, resulting from necessity, can never injuriously affect the right which the President believes to be justly asserted by Texas to the whole territory on this side of the Rio Grande whenever the Mexican claim to it shall have been extinguished to it by treaty. But this is a subject which more properly belongs to the legislative than the executive branch of the Government.'

"The result of the whole is, that Texas had asserted a right to that part of New Mexico east of the Rio Grande, which is believed, under the acts of Congress for the annexation and admission of Texas into the Union as a State, and under the constitution and laws of Texas, to be well founded."

Pending the negotiations, Mr. Trist, our commissioner, asserted the obligation of the United States to defend the title of Texas. He said that—

"Until ascertained by a compact or agreement between the United States and Mexico, the boundary between the two Republics, when considered with reference to the national obligation to protect their territory from invasion, could be none other than that very boundary which had been asserted by Texas herself."

On the 12th of October, 1848, the Secretary of War, Governor Marcy, in his instructions to the commanding officer at Santa Fé, declared that—

"In regard to that part of what the Mexicans call New Mexico, lying east of the Rio Grande, the civil authority which Texas has established, or may establish there, is to be respected, and in no manner to be interfered with by the military force in that department, otherwise than to lend aid on proper occasions in enforcing it."

These extracts are evidence of the opinions of the Administration at the time of the annexation of Texas, that prosecuted the war against Mexico, negotiated the treaty, and had a thorough knowledge of all questions growing out of the annexation policy and the war with Mexico. But the impregnable basis of the title of Texas was, that she was admitted as a State with boundaries which were not changed, modified, or restricted by the treaty with Mexico; that the Boundary of the United States was so extended as to embrace the utmost limits of Texas. On these facts the United States became utterly powerless with regard to the title of Texas. The boundary of Texas could no more be disturbed by the United States than could the boundary of any other State, or of even any foreign nation. It has been settled since the foundation of the Government that Congress has no power over the boundaries of a State; and the United States admitted the doctrine for years after the annexation of Texas. The United States was the trustee of Texas in settling the boundary question, and could not have acquired the subject-matter in opposition to the right of the principal. The act would be a fraud of ineffable baseness, void in all courts and countries where right and equity are recognized. She was in one sense the umpire; and could she end the controversy by tortiously converting the property to her own use?

But, notwithstanding the acts and admissions through the four years of Mr. Polk's administration, and the indisputable validity of the title of Texas, the succeeding Administration evinced hostility, which culminated in the message of August 6, 1850, menacing punishment against all attempts to enforce the laws of Texas; that the troops under the command of the State of Texas should be treated as intruders and trespassers, and that the forces of the United States would be employed to coerce a sovereign State, punish her citizens acting in obedience to her command as criminals, and eject her authorities and laws from a large portion of her prescribed and defined limits. Under such circumstances, with the uplifted sword in the one hand and the purse in the other, the United States proposed a purchase of the Territory.

Texas was in no condition to accept hostilities. She had, prior to annexation, been exhausted by the troubles with Mexico and the savage. She was hourly acquiring strength by repose and tranquillity. She chose the alternative that true policy dictated. Peace was everything to her. War would have blasted her prosperity. She determined to disregard the offensive circumstances of the proposal to purchase, and accept it as most conducive to her highest interest, and solid and permanent advantage. The alternative was painful. The dismemberment of a nation's territory pierces the heart of every citizen. It is never submitted to unless to avoid still greater evil. And shall the United States, who extorted this territory from Texas at almost literally the point of bayonet, in order to conceal the odium of the outrage, be suffered to pervert the whole transaction, and even invoke sympathy as a purchaser of a defective title? Will the despoiler fill the air with his cries and complaints as if he himself had been the victim? But I forbear. I have said enough to vindicate the title of Texas. And whether her title were good or bad, the United States ought to be forever silent; or if she spoke, to pray that the angel of mercy might expunge the whole act from the pages of history.

I have spoken to repel assault; but in no captious or querulous spirit. On the behalf of Texas, I disdain the language of complaint. I vindicate the truth of history; nothing more.

Freely, without price, Texas brought an empire to the United States. Her admission was the instrumentality by reason of which there was acquired to the United States the vast region from the Rio Grande to the Pacific, with its countless mineral, agricultural, and commercial riches. In the wide domain of Texas the Government has constructed no forts, no court-houses, finished no arsenals, no custom-houses, and stored but a very limited supply of arms. Thirty million people cannot be drawn into war for the defence of any miserable forts on the coast of Texas. We have none.

The United States have expended large amounts annually in maintaining the troops in Texas. Troops, in well organized military arrangements, are stationed on the frontiers of a country; these frontiers have been desolated by the savage. One hundred lives were sacrificed last year; and within a month or two thirty were massacred with the most shocking barbarities. The troops must be supported, let them be stationed where they will. Texas will never forget the benefits she has derived from the Union. She has received none from direct legislation. But she has had peace and tranquillity. She has had a sense of security; and she has increased from one hundred thousand to six hundred thousand persons, and advanced rapidly in all the elements of wealth and power. Texas appreciated the advantages she derived from Mexico, the immense grants of land, exemption from taxation, the

mild administration of her laws. But for causes justified by the world, Texas was impelled to a separation; and now, on grounds deemed essential to her security and happiness, she will feel herself constrained to dissolve connection with this Confederacy; filing again her glorious and triumphant banner to the breeze, and establish on secure basis the rights, the liberties, and the happiness of her people.


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